

1 Q Yes.

2 A Let me go back to your question --

3 Q Okay.

4 A -- which as how many employees
5 does Preferred have, and we've got myself and
6 Linda McClain and Michael Waller.

7 And Linda is the -- is, you know,
8 the backbone of the accounting and books and
9 records and investor files and consultant
10 files. And Michael assists Linda and myself,
11 depending on a need, and then we have a part-
12 time gal that comes in and assists either --
13 whoever -- mainly Linda in the accounting
14 department.

15 Q And so what is her official title?

16 A She is --

17 Q Does she have one?

18 A Yes. She's corporate secretary,
19 officer of the company.

20 Q All right. And how many
21 consultants does PCSI employ?

22 A Well, right now none.

1 Q Was Pendleton Waugh the only
2 consultant employed by PCSI?

3 A No. We've used several
4 consultants over the years.

5 Q Can you give us a couple?

6 A Alex Calderon. We've hired
7 several different firms over the years. Jay
8 Bishop. Of course, we've got attorneys and
9 we've --

10 Q Well, I'm talking about people who
11 are actually working day-to-day for the
12 company.

13 A That's pretty much the --

14 Q So, is it fair to say that
15 Pendleton Waugh, Alex Calderon and Jay Bishop
16 were the consultants utilized by PCSI?

17 A I'm just trying to think of if I'm
18 leaving somebody out. Yes. I think that's
19 pretty fair to say.

20 Q And can you tell us when Alex
21 Calderon left the company?

22 A Well, Alex --

1 Q If he left the company.

2 A Well, Alex owns an engineering
3 firm, CTO, and we utilize him in a number of
4 different ways. Some official, some
5 unofficial in assisting the company.

6 Q What are the unofficial ways you
7 utilize him?

8 A Well, the consulting that goes
9 above and beyond projects that he's working on
10 for us. He's been a tremendous help to our
11 company.

12 Q In what way? You're indicating
13 something other than specific projects, is
14 that what you're saying?

15 A No. What I'm referencing to is
16 that he's done a lot of work for us and a lot
17 of it, you know, it wasn't specifically a job
18 that we asked him to do and he priced it out
19 and we paid him to do it.

20 You know, I'll call up Alex and
21 get his consulting and advice on certain
22 issues that are above and beyond the scope of

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1 any contractual agreement that we have
2 between.

3 Q Okay. So, general consulting.

4 A Yes. Yes.

5 Q Okay. And that's ongoing?

6 A Yes.

7 Q But he is not a day-to-day
8 employee of PCSI?

9 A No.

10 Q And what about Jay Bishop, when
11 did his association end, if it did?

12 A You've asked that once already,
13 and I'll -- it ended --

14 Q Okay, refresh my memory

15 A I don't know if it was this
16 morning or just a little while ago.

17 Q It was just a little while ago.

18 A It was the end of 2000.

19 Q End of 2000.

20 A Yes.

21 Q Okay. With his conviction, I
22 think you said?

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1 A Yes.

2 Q And, of course, Pendleton Waugh,
3 we know you ended in 2007.

4 A Yes.

5 Q Okay. And other than the three of
6 you, there are no day-to-day -- no other day-
7 to-day employees of PCSI?

8 In other words, you mentioned Mike
9 Waller, Linda McClain, yourself. Alex
10 Calderon is a part-time consultant, and Jay
11 Bishop no longer works for the company, and
12 Pendleton Waugh no longer works for the
13 company.

14 So, currently, is it just the
15 three of you who are employees, day-to-day
16 employees of PCSI?

17 A Yes.

18 Q Now, was there a time at which
19 PCSI hired what are called, I think were
20 referred to in the documents as finders.

21 A Yes.

22 Q Okay. Can you tell us what

1 finders do?

2 A Finders find investors, and that's
3 what finders -- they -- individuals who have
4 a number of individuals that they introduce to
5 the company for investment purposes.

6 Q Okay. And how are they paid?

7 A They get a finder fee.

8 Q What typically does that amount
9 to?

10 A It depends on the contract, but
11 ten percent of the funds.

12 Q Ten percent of the funds that the
13 investor --

14 A Yes.

15 Q -- eventually gives over to the
16 company?

17 A Yes. And then they earn warrants
18 as well.

19 Q And do those finders -- warrants
20 for stock?

21 A Yes.

22 Q Okay. And do those finders come

1 and go, or have you had a regular cadre of
2 finders that --

3 A Well, you know, like with an
4 organization you have those that come and go,
5 and then you have those that have been there
6 and continued to be involved with the company.

7 Q Can you give us a couple of
8 examples of those who continue to be involved
9 with the company?

10 A Well, yes. We've got Lanette Nev,
11 Doc Scott, Ed Trujillo, Michael Judy.

12 MR. OSHINSKY: Could we go off the
13 record for just a second.

14 (Whereupon, the above-entitled
15 matter went off the record at 11:11 a.m. and
16 resumed at 11:12 a.m.)

17 BY MR. OSHINSKY:

18 Q Are you, yourself, involved in
19 PCSI's daily operations?

20 A Yes.

21 Q Okay. Can you tell us: What do
22 you do during a typical day? And if it's

1 changed since the beginning of PCSI and, you
2 know, the PAI licenses, tell us that, too.

3 A Well, you know, what I do on a
4 day-to-day basis depends on what the priority
5 is that day. Basically everything funnels
6 through me. Everything evolves around me.

7 We've got very few people and I
8 wear a lot of different hats. So, --

9 Q Well, pick a typical work day, a
10 day maybe from last week. Just pick a day and
11 tell us what your -- you know, your activities
12 for that day so we can get a picture, sort of
13 a snapshot of what, you know, what the
14 activity is of PCSI during the day, during the
15 work day.

16 A It depends on what's going on at
17 the time. When we're in the middle of an
18 auction, I'm doing the bidding and if we're in
19 the process of preparing for fund-raising, I'm
20 working with attorneys, drafting and preparing
21 legal documents, subscription documents,
22 offering documents.

1 Q Were you involved in the actual
2 bidding in Auction 34? Were you actually
3 pulling the levers or pressing the keys?

4 A Michelle did that. It was what,
5 2000, and I wasn't very good on the internet.
6 Michelle was.

7 Q I notice it's quite complicated.

8 A It's kind of funny, isn't it. I
9 was thinking about that the other day.

10 Q Well, I interrupted you. Go
11 ahead. You said -- you were giving us a
12 recitation of what you typically do there.

13 A It's -- you know, there's -- you
14 know, when we get a letter of inquiry from the
15 FCC pretty much everything stops and --

16 Q Well, forget -- let's forget about
17 that, I mean, if we can, and go back to either
18 before that or work around that.

19 A Right.

20 Q What else do you do? Do you
21 perform administrative tasks for PCSI?

22 A Yes, a number of administrative

1 tasks in terms of investor, investor files,
2 updating and organizing that activity. It's
3 hard to be specific because it would be
4 basically, you know, I wear one hat and I just
5 turn the bill, and it depends on the priority
6 that day.

7 Q All right. Well, what about
8 something like leasing office space or
9 obtaining office supplies, things like that?

10 A Obtaining office -- well, we
11 haven't had much need over the year to do
12 office, you know, office leasing, but there is
13 one in Palm Springs. The --

14 Q Well, did you arrange for that
15 one?

16 A Yes.

17 Q You personally arranged for it?

18 A Yes. And the first office in
19 Dallas, the second office in Dallas, the
20 office in California, the office in Arizona.
21 It was actually -- the leg work was done by
22 Kent Maerki but, you know, being the only

1 officer -- you know, being the main guy, no
2 contract or no function of the company happens
3 without me being involved at the end.

4 Q Now, who is Ken Maerki?

5 A Ken Maerki is a gentleman who ran
6 the Arizona office for a number of months.

7 Q Okay. So, did PCSI, in its
8 history, have offices in three, Arizona, Texas
9 and California?

10 A Not at the same time. We shut
11 down California and moved it to Arizona.

12 Q And where is the -- what happened
13 to the Arizona office?

14 A We got rid of it.

15 Q Okay. So at this point there's
16 how many locations for PCSI?

17 A Just one.

18 Q Just the one.

19 A And we're in the process of --
20 yes, just the one. Go ahead.

21 Q Okay. And is your name on the
22 lease of all these different places?

1 A Well, the company's -- the
2 company, Preferred --

3 Q No, I didn't mean that you would
4 be personally responsible, but did you sign
5 the lease?

6 A Yes.

7 Q You did. So, you signed the lease
8 for all those places, to the best of your
9 recollection?

10 A Absolutely, yes.

11 Q And what about things like office
12 supplies and necessities for the office?

13 A If I can get -- avoid having to go
14 to Staples and do any of that, absolutely.

15 Q Who typically --

16 A Linda. Linda does that.

17 Q Okay. What about the drafting of
18 memoranda and, you know, documents related to
19 business plan, annual budget, that kind of
20 thing?

21 A Well, you're mixing quite a few
22 there.

1 Q Okay. Well --

2 A They're all different, so --

3 Q Okay. Who would be responsible
4 for drafting memoranda in the office?

5 A There's nobody, actually, is
6 responsible for drafting memorandums.

7 Q You mean no memorandums got
8 drafted?

9 A Nobody's responsible for doing
10 that.

11 Q Well, so my question is: How do
12 they get drafted if there are memoranda
13 drafted there?

14 A Well, we have one guy who drafts
15 memorandums ad nauseam.

16 Q Okay. And who is that guy?

17 A You know, you know who that is.
18 That's Pen. And you've seen all the
19 memorandum, and he loves to draft them and
20 send them.

21 Q Okay. Is there anybody else who
22 did that?

1 A Other than myself, no. No.

2 Q All right. And compared to Mr.
3 Waugh, how many did you draft in comparison to
4 him, percentagewise?

5 A I don't -- oh, percentagewise?

6 Q Yes. Some -- any form of
7 comparison, mode of comparison.

8 A We've got a small office. It's
9 Linda, Michael and myself.

10 Q Right.

11 A And I don't have time to sit down
12 and draft memos. We're busy. And I don't
13 need to send a memorandum. We get together in
14 the morning and put together priorities of
15 what we're doing that day and if it's a
16 special project everybody knows their
17 assignments, and I direct people verbally.

18 Q So it didn't necessarily result in
19 a memorandum?

20 A Why email somebody an office away.
21 I don't do a lot of -- I don't have time to do
22 that and it's unnecessary. If it's a large --

1 a bigger organization would require that, but
2 we're all busting our butt all day long and we
3 work quite well together.

4 Q Did you typically produce anything
5 like a memorandum that was generated for, you
6 know, businesses that were utilized by PCSI,
7 like a law firm or a service company, or
8 perhaps Alex Calderon's office, any kind of
9 documentation that was produced by PCSI or
10 someone at PCSI like that?

11 Well, let me you, actually, my
12 question is: Did you do that?

13 A Did I direct these people and tell
14 them what I wanted to have done?

15 Q If you did, yes.

16 A Yes. Yes.

17 Q Can you give us an example?

18 A An example.

19 Q What I'm talking about is a
20 service company, and just let's use Alex
21 Calderon's company for example. If you needed
22 them to do something, if you needed a project

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1 to go to them, who would typically draft those
2 documents related to the project?

3 A Well, it would depend on who is
4 doing what at the time. If it were me, I'd
5 get on the phone with Alex and talk to him
6 about the project, and then I would have him
7 draft up a proposal and send it over to me.

8 If it were during a period of time
9 when Pen was in the office, I would go over to
10 him and say, you know, draft it up and this is
11 what I want. Draft it and send it over.

12 If I could avoid having to sit
13 there and draft memos, or do any drafting, I
14 would do so. I prefer to do it verbally.

15 Q What about advertizing for
16 employment for finders, you know, for example,
17 were you involved in that? Was that part of
18 your daily --

19 A I didn't have much to do with the
20 day-to-day out in the California marketing
21 office. That was the responsibility of office
22 manager. In the beginning it was, a very

1 brief period of time, it was Clementine
2 Estrada until we butted heads and kind of
3 caught wind of some of the things that she was
4 up to and parted ways very quickly.

5 Q When did she leave?

6 A Gosh, it must have been by April
7 or May of 2005, if not sooner.

8 Q What about interviewing people,
9 like -- and I'm just using finders, for
10 example?

11 A It was the responsibility of Bob
12 Estrada to -- he was the office manager, and
13 I believe he did most of, if not all of the
14 interviewing with employees. I don't know how
15 much others were involved in that process.

16 It was up to Bob to utilize --

17 Q This is the California office
18 we're talking about?

19 A Yes. Yes.

20 Q Okay. Is that typically where the
21 finders were employed or operated out of?

22 A Well, they weren't necessarily

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1 employed, but that was the marketing office,
2 and that's from -- but, you know, Lynette met
3 with him in Arizona and Ed Massey met with him
4 in Texas.

5 A number of individuals I've dealt
6 with directly, but that was the responsibility
7 of the marketing which was -- Bob Estrada was
8 the office manager and Pen was out there to
9 assist in their efforts, and marketing and
10 raising funds for the company.

11 How they divided it up on a day-
12 to-day, since I wasn't directly there, I
13 can't be specific, other than that was their
14 responsibility.

15 Q All right. So, can you tell us --
16 again, this is in your day-to-day life at PCSI
17 -- who is it that you would directly
18 supervisor and would you be responsible for
19 assessing, you know, the performance of, which
20 individuals.

21 A Well, we've only got three, so I--

22 Q Okay. Currently. What about in

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1 the past?

2 A I'd say, you know, we've only had
3 a brief period of time where we had a lot of
4 employees.

5 Q And when was that?

6 A And that was in 2005 when the
7 marketing office. And that was -- that was
8 right after 2004 where we came out of what I
9 call the Dark Ages of our company when we were
10 severely hindered from doing anything because
11 of 800 MHz rebanding proceeding.

12 It was very difficult when the
13 Commission is advocating stripping us of
14 cellular spectrum rights on a spectrum that we
15 paid \$31.6 million for.

16 So, couldn't raise -- couldn't
17 move forward as a company because the plan
18 that was being proposed was not going to allow
19 us to utilize licenses for which we paid the
20 money for. So --

21 Q Yes -- yes, go ahead. I'm sorry.

22 A So when 2005 came about there was

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1 a tremendous amount of work to be done at
2 corporate. So, I would -- I was in contact
3 with the marketing office on a day-to-day
4 basis that would involve Bob Estrada and Pen.

5 And I would visit periodically as
6 often as I could, but the process was a pretty
7 simple process in terms that by the time that
8 we opened up the office we had a number of
9 finders who had been in the wireless industry
10 and then quite a number of investors who had
11 participated.

12 And we built up a number of
13 employees which I did not have direct
14 supervision over. I oversaw and supervised
15 Bob Estrada.

16 Being so many miles away, it was
17 very difficult for me to assess how well he
18 was doing, difficult to assess how well Pen
19 was doing, so I'd have to talk to the two of
20 them, and at the end of the year, which is
21 pretty typical, there was a falling out
22 because --

1 Q This is in 2005?

2 A 2005. Because, you know,
3 personalities and the difficulty of working
4 with Pen, I knew that -- that, you know, I saw
5 it progressing and at the end of 2005, you
6 know, Pen walked away from the office and
7 recommended that I fire everybody but two
8 people.

9 So I went out and I spent several
10 months assessing everybody and I ended up
11 firing the two people and keeping the rest of
12 them.

13 Q Firing the two people that
14 Pendleton Waugh wanted you to keep?

15 A Yes.

16 Q And why was that?

17 A Well, the one gal, she is terribly
18 incompetent and was creating two days' worth
19 of work for other people to fix her problems
20 that she was creating, and the other one was
21 Pen's personal assistant which, once again,
22 incompetent and a huge disruption in the

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1 office. So, I had to let them go.

2 Q Okay. And in 2000 -- okay. I'm
3 sorry. Can you give us the names of those
4 people if you recall them.

5 A Terry -- Terry -- If I keep saying
6 that, I'll remember it. Terry Reese, maybe.

7 Q R-e-e-s-e?

8 A Maybe, yes. I'd have to check,
9 you know, confer with the files. And the
10 other one was Lynn Flanders.

11 Q And at this point in 2005
12 Pendleton Waugh was in the California office
13 and you were in the Texas office?

14 A Yes.

15 Q Okay.

16 A Through the end of the year and
17 then in 2006 -- the beginning of 2006 he came
18 back to Texas. He had been on the road for
19 quite some time, so he has his ex-wife and a
20 house in Texas.

21 So he'd been on the road and so he
22 came back Christmas and he didn't want to go

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1 back to California and work with those people
2 anymore.

3 And so I went out and ran the
4 office at the point we had a number of -- a
5 number of employees, and I went back out there
6 to reorganize and get the office running.

7 Q And how many -- and why did you
8 have so many employees at the end of 2005? I
9 think you alluded to it, but didn't say
10 specifically.

11 A Because the function of the
12 marketing and fund-raising required more
13 people. There's a number of folks that were
14 involved in that process.

15 Q And did that change after the
16 rebanding? Is that what you're telling us?

17 A What do you mean?

18 Q You seem to say that -- you
19 referred to some period in PCSI's history as
20 the Dark Ages. So, could you explain that?

21 A 2005 was after the rebanding.

22 Q Okay. And was it the rebanding

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1 that caused the conflict in the office at the
2 end of 2005?

3 A No. The rebanding was over --
4 well, no. No, I mean, it's still an ongoing
5 thing, but --

6 Q No, I understand that.

7 A Did the rebanding --

8 Q In other words, what is -- the
9 Dark Ages is because you got thrown into the
10 rebanding, is that -- is that what you're
11 referring to? What makes it the Dark Ages?
12 I'll step back and ask you that.

13 A Well, what makes it -- it was a
14 very difficult period of time for the company,
15 having just participated in the auction and
16 having to defend the right to keep the
17 spectrum rights that it paid for in the
18 auction.

19 Are you familiar with the 800 MHz
20 rebanding?

21 Q Yes, I am.

22 A Okay. Well, then, you're well-

1 aware that for the first three and a half
2 years of the rebanding proceeding, you know,
3 what started off as Nextel's white paper and
4 then a consensus party's plan, well, the
5 Commission was backing the plan.

6 And Nextel's plan was, in order to
7 alleviate interference that they were causing
8 with public safety is to reconfigure it to
9 where there was a noncellular band, a cellular
10 band.

11 They were going to put up \$500
12 million and they would take all of the
13 cellular band, move everybody, auction
14 licensees included, to the noncellular portion
15 of the band.

16 And, you know, when we first saw
17 the white paper, we laughed and said, you
18 know, even Nextel's not going to be able to
19 get the Commission to bite on this, and how
20 wrong were we.

21 We lived with it for three and a
22 half years, and it was very devastating